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6 UNITED STATES BANKRUPTCY COURT
7 NORTHERN DISTRICT OF CALIFORNIA

8
9 IN RE: CASE No. 10-10194

10 JESUS LOPEZ, and CHAPTER 13
ELIDA LOPEZ,

11 Debtors. /

OBJECTION TO CONFIRMATION OF
CHAPTER 13 PLAN; MEMORANDUM OF
POINTS AND AUTHORITIES

Date: July 19, 2010

Time: 1:30 p.m.

Place: 99 South E St.
Santa Rosa, CA

15 Advanced Hyperbaric Recovery, LLC, by and through counsel,
16 hereby objects to confirmation of Debtors' Chapter 13 Plan and
17 represents:

18 1. Advanced Hyperbaric Recovery, LLC holds a valid and
19 perfected security interest in real property located at 7155
20 Gravenstein Highway, Cotati, California (hereinafter the "Real
21 Property").

22 2. The security interest secures a principal indebtedness in
23 the amount of \$233,733.00 as evidenced by the Promissory Note and
24 the Deed of Trust. Pursuant to the terms of the Promissory Note,
25 the Debtor is required to tender monthly payments to Advanced
26 Hyperbaric Recovery, LLC in the amount of \$1,947.78.

27 3. Debtor failed to make the monthly payment required under
28

1 the Note and Deed of Trust for the months of January, 2009 through
2 the present. The total amount required to be paid in order for
3 Debtor to reinstate the loan is in excess of \$35,000.00.

4 4. The [proposed] Chapter 13 Plan seeks to modify the rights
5 of Advanced Hyperbaric Recovery, LLC pursuant to Section 1322(b)((2)
6 by (a) determining the value of the secured claim pursuant to
7 Section 506(a); (b) requiring payments of only \$1,400.00 per month
8 during the pendency of the Plan on such secured claim; and (c)
9 providing for a lump sum payment of the secured claim from a sale or
10 refinance which is supposed to occur at 48 months from the effective
11 date of the Plan.

12 5. The Plan is not confirmable because the provisions
13 applicable to the claim of Advanced Hyperbaric Recovery, LLC violate
14 Section 1325(a)(5)(B)(iii)(I) and Section 1325(a)(6).

15 WHEREFORE, Advanced Hyperbaric Recovery, LLC prays for an
16 order denying confirmation of the Debtors' Chapter 13 Plan, and for
17 such other and further relief as the Court deems just and proper.

18 Respectfully submitted,

19 Dated: 5/14/10

DAVID N. CHANDLER, p.c.

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21 By: /s/ David N. Chandler, Jr.
22 DAVID N. CHANDLER, JR.,
23 Attorney for Advanced Hyperbaric
Recovery, LLC

24 MEMORANDUM OF POINTS AND AUTHORITIES

25 1. Pursuant to Section 1325(a)(5)(B)(iii)(I), a plan may not
26 be confirmed unless installment payments on account of secured
27 claims are in the form of equal monthly payments. 11 U.S.C. §
28 1325(a)(5)(B)(iii)(I). Here, the \$1,400.00 installment payments

1 are not equal to the lump sum payment that is to be made upon sale
2 or refinance and, as such, the Plan cannot be confirmed. See In re
3 Hamilton (1st Cir.BAP 2009) 401 B.R. 539, 543.

4 2. Pursuant to Section 1325(a)(6), a plan may not be
5 confirmed unless it is feasible. 11 U.S.C. § 1325(a)(6). Here, the
6 Debtors cannot demonstrate a sufficient likelihood that a sale or
7 refinance will happen 48 months from the effective date of the Plan.

8 3. Confirmation of the Plan must be denied because the Plan
9 violates Section 1325(a)(5)(B)(iii)(I) and Section 1325(a)(6).
10

11 Dated: 5/14/10

DAVID N. CHANDLER, p.c.

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13 By: /s/ David N. Chandler, Jr.
14 DAVID N. CHANDLER, JR.,
15 Attorney for Advanced Hyperbaric
16 Recovery, LLC
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